

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION II

IN THE MATTER OF DEWEY LOEFFEL
LANDFILL SUPERFUND SITE

General Electric Company and SI Group, Inc.

Respondents,

Proceeding under Sections 106(a) and 122(a) of
the Comprehensive Environmental Response,
Compensation, and Liability Act of 1980, as
amended, 42 U.S.C. §§ 9606(a) and 9622.

Index No. CERCLA 02-2012-2005

ADMINISTRATIVE SETTLEMENT AGREEMENT AND ORDER ON CONSENT
FOR A REMOVAL ACTION

I. JURISDICTION AND GENERAL PROVISIONS

1. This Administrative Settlement Agreement and Order on Consent (the "Settlement Agreement") is entered into voluntarily by General Electric Company ("GE") and SI Group, Inc. ("SI") (hereinafter "Respondents") and the United States Environmental Protection Agency ("EPA") and requires Respondents to perform a removal action and pay certain response costs in connection with the Dewey Loeffel Landfill Superfund Site, Town of Nassau, Rensselaer County, New York.

2. The Settlement Agreement is issued to Respondents by EPA pursuant to the authority vested in the President of the United States under Section 106(a) and 122(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. §§ 9606(a) and 9622(a), and delegated to the Administrator of EPA on January 23, 1987, by Executive Order No. 12580 (52 Fed. Reg. 2926, January 29, 1987). This authority was further delegated to the EPA Regional Administrators by EPA Delegation Nos. 14-14-C and 14-14-D and redelegated within Region II to the Director of the Emergency and Remedial Response Division by Regional Order No. R-1200, dated November 23, 2004.

3. EPA has notified the State of New York ("State") of this action pursuant to Section 106(a) of CERCLA, 42 U.S.C. § 9606(a).

4. Respondents' participation in this Settlement Agreement shall neither constitute nor be construed as an admission of liability or an admission of the Findings of Fact or Conclusions of Law contained in this Settlement Agreement. To effectuate the mutual objectives of EPA and Respondents, Respondents agree to comply with and be bound by the terms of this Settlement Agreement. Respondents agree not to contest the authority or jurisdiction of the Director of the Emergency and Remedial Response Division or his delegate to issue this Settlement Agreement, and further agree that they will not contest the validity of this Settlement Agreement or its terms in any proceeding to enforce the terms of this Settlement Agreement.

II. PARTIES BOUND

5. This Settlement Agreement applies to and is binding upon EPA and Respondents and their successors and assigns. Any change in the ownership or corporate status of any Respondent, including, but not limited to, any transfer of assets or real or personal property, shall not alter the responsibilities of Respondents under this Settlement Agreement.

6. Respondents are jointly and severally liable for carrying out all activities required by this Settlement Agreement. In the event of the insolvency or other failure of any one Respondent to implement the requirements of this Settlement Agreement, the remaining Respondent shall complete all such requirements.

III. DEFINITIONS

7. Unless otherwise expressly provided herein, terms used in this Settlement Agreement which are defined in CERCLA or in regulations promulgated under CERCLA shall have the meaning assigned to them in CERCLA or its implementing regulations. Whenever terms listed below are used in this Settlement Agreement or in an attachment to this Settlement Agreement, the following definitions shall apply:

- a. "Day" means a calendar day unless otherwise expressly stated. "Working Day" shall mean a day other than a Saturday, Sunday, or Federal holiday. In computing any period of time under this Settlement Agreement, where the last day would fall on a Saturday, Sunday, or Federal holiday, the period shall run until the close of business on the next working day.
- b. "Discharge Requirements" means the substantive requirements, including, but not limited to, monitoring requirements and effluent limits, established by the New York State Department of Environmental Conservation ("NYSDEC") for discharge to Tributary 11A and/or the Valatie Kill which, when finalized, will be deemed to be incorporated into and made an enforceable part of this Settlement Agreement.

- c. "Effective Date" means the date specified in Paragraph 138.
- d. "Interest" shall mean interest at the rate specified for interest on investments of the EPA Hazardous Substance Superfund established by 26 U.S.C. § 9507, compounded annually on October 1 of each year, in accordance with CERCLA § 107(a), 42 U.S.C. § 9607(a). The applicable rate of interest shall be the rate in effect at the time the interest accrues. The rate of interest is subject to change on October 1 of each year.
- e. "Party" or "Parties" means EPA and/or Respondents.
- f. "Pump and Treat System" means the on-Site systems that include, but are not limited to, groundwater extraction, leachate collection, and treatment of groundwater and leachate in accordance with the Discharge Requirements as defined above.
- g. "Response Costs" means (i) all costs paid for work performed by EPA Region 2 Removal Action Branch, Emergency and Remedial Response Division personnel and removal response contracts related to the removal action selected in the Action Memorandum dated August 15, 2011; (ii) all direct and indirect costs incurred by EPA in overseeing Respondent's implementation of the Work (defined below) from the Effective Date until the date of EPA's written notification pursuant to Paragraph 135 of this Settlement Agreement that the Work has been completed; (iii) all direct and indirect costs incurred by EPA in connection with obtaining access for Respondents in accordance with Paragraph 84.c. below; and (iv) all other direct and indirect costs incurred by EPA in connection with the implementation of this Settlement Agreement.
- h. "Settlement Agreement" shall mean this Administrative Settlement Agreement and Order on Consent, Index Number CERCLA-02-2012-2005, and all appendices attached hereto. In the event of conflict between this Settlement Agreement and any appendix, this Settlement Agreement shall control.
- i. "Site" shall mean the Dewey Loeffel Landfill Superfund Site, which includes a 19.6 acre inactive hazardous waste disposal area, a/k/a the landfill proper ("LP"), and all areas to which contamination has migrated, including the former Mead Road Pond, Tributary T11A, Valatie Kill, Valley Stream, Smith Pond, Nassau Lake, as well as the groundwater. The Site also includes the area upon which the Pump and Treat System will be located. The Site is depicted generally on the map attached as Appendix A.
- j. "Waste" means (1) any "hazardous substance" under Section 101(14) of CERCLA, 42 U.S.C. § 9601(14); (2) any "pollutant or contaminant" under

Section 101(33) of CERCLA, 42 U.S.C. § 9601(33); (3) any "solid waste" under Section 1004(27) of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6903(27); and (4) any mixture containing any of the constituents noted in (1), (2), or (3) above.

- k. "Work" means all work and other activities that Respondents are required to perform pursuant to this Settlement Agreement.

IV. EPA'S FINDINGS OF FACT AND CONCLUSIONS OF LAW

8. The Site is located in a sparsely populated area of the Town of Nassau, a rural community in Rensselaer County, New York, with a total population of approximately 4,800.

9. The LP is located in a low-lying area between two wooded hills. Topography in the area generally slopes downward from east to west. Surface water generally drains from the LP to the northwest toward Mead Road Pond. Water exiting the Mead Road Pond area flows via the T11A tributary, which in turn flows into the Valatie Kill. The Valatie Kill flows in a south westerly direction to Nassau Lake, approximately 2 miles downstream of the LP. Surface water flowing to the southeast from the LP flows to a low-lying area and to a small unnamed tributary and then into Valley Stream which flows through Smith Pond and discharges to Nassau Lake.

Groundwater flow in the overburden soils in the vicinity of the Site is generally to the west; in the bedrock, flows are both to the west and south. Groundwater flows to the south are influenced by the presence of fractures within the bedrock.

10. From approximately 1952 to 1968, the LP was operated by Richard Loeffel (until his death in 1959), his son Dewey Loeffel, and companies owned by the Loeffels, including, but not limited to, Loeffel's Waste Oil and Removal Service Company, Inc., and Marcar Oil, Inc. (hereinafter referred to as "Loeffel Companies"). The LP included lower (1 acre) and upper (5 acres) lagoons in the western and central portion of the LP, a 25-by 150-foot, 6-foot deep oil pit in the east central part of the LP, four 30,000-gallon above-ground oil storage tanks, and a drum disposal area located in the southern and eastern portions of the LP.

11. On information and belief: (i) Approximately 46,000 tons of industrial and/or hazardous waste were transported to and disposed of at the Site by Loeffel Companies. The waste included, but was not limited to, solvents containing volatile organic compounds ("VOCs"), waste oils, sludges, and liquid and solid resins; (ii) of the 46,000 tons of industrial and/or hazardous waste sent to the Site, approximately 37,500 tons were sent by GE, 8,250 tons were sent by Schenectady Chemicals, Inc. (now SI), and 561 tons were sent by Bendix Corporation (now Honeywell International Inc. ("Honeywell")); and (iii) the industrial and/or hazardous waste sent by Respondents to the Site contained, among other things, hazardous substances such as polychlorinated biphenyls ("PCBs") and/or VOCs including, benzene, toluene, xylene, methyl-ethyl ketone, trichloroethylene ("TCE"), chlorobenzene, 1,2 dichlorobenzene, 1,4 dichlorobenzene, 1,1 dichloroethane, 1,2 dichloroethylene, and/or vinyl chloride.

12. On information and belief: during disposal operations, hazardous substances were reportedly collected in 55 gallon drums and transported to the Site. The contents of reusable drums were dumped either into the oil pit or into the upper lagoon. Unusable drums were dumped either on the perimeter of the upper lagoon or in a drum disposal area. Drums were later covered with soil. The pit was used to store and/or separate recyclable oily wastes. The non-recyclable contents were pumped into the lagoon or onto the ground surface. Waste materials were reportedly also burned during facility operations. Hazardous substances have migrated from the LP to, among other things, the underlying aquifer resulting in contamination of ground water.

13. In 1968, after several years of citizen complaints, documented downstream fish and cattle kills, and uncontrolled fires at the facility, the State of New York ordered Dewey Loeffel and the Loeffel Companies to stop discharges from the LP and perform remedial activities including covering and grading contaminated areas and controlling drainage around the LP. These measures were conducted by Dewey Loeffel and the Loeffel Companies at some time between 1970 and 1975.

14. On September 23, 1980, GE entered into an agreement with NYSDEC which required GE to perform field investigations, submit an engineering report which discussed the collected data, identify alternative remedial programs and recommend a remedial program from among the alternatives. The remedial program was subsequently approved by NYSDEC and included a low permeable cap with vegetative cover, surface water drainage swales, a perimeter cutoff wall extended to the bedrock and a leachate collection system. Pursuant to the 1980 agreement, GE paid NYSDEC approximately \$2.33 million, representing GE's share, as determined by NYSDEC, of NYSDEC's costs to implement the approved remedial program and long-term maintenance and monitoring at the LP. Subsequently Honeywell executed an agreement with NYSDEC pursuant to which it also contributed monies to defray a portion of the NYSDEC's anticipated remedial construction, maintenance and monitoring costs at the LP. In addition, after a decision by the New York State Appellate Division in *State v. Schenectady Chemicals, Inc.*, 479 N.Y.S.2d 1010 (N.Y. App. Div. 1984), in which the Court stated Schenectady Chemicals, Inc.'s (now SI's) share, as determined by NYSDEC, Schenectady Chemicals, Inc. entered into a Consent Judgment with New York State, pursuant to which it paid \$496,000, representing its share of NYSDEC's costs to implement its remedial program and long term maintenance and monitoring at the LP.

15. Beginning in 1983, NYSDEC and/or GE has performed a variety of response actions at the Site, some of which were performed in accordance with two Records of Decisions ("RODs") issued by NYSDEC under State law. Such response actions included, but were not limited to, the installation of a clay cap and soil/bentonite clay slurry wall at the LP, the removal of drums and storage tanks, the installation and operation of a bedrock groundwater recovery well system, monitoring and maintenance of residential well treatment systems, disposal off-Site of extracted contaminated groundwater and leachate and removal of contaminated sediments. NYSDEC

designed, but did not construct a new leachate collection system and began the design of a wastewater treatment facility in accordance with a Record of Decision issued by NYSDEC under State law.

16. At the request of NYSDEC, EPA proposed the Site for listing on the National Priorities List ("NPL") established pursuant to Section 105 of CERCLA, 42 U.S.C. §9605, by publication in the *Federal Register* on March 4, 2010, 75 *Fed. Reg.* 9843. The Site was listed on the NPL on March 10, 2011. In addition to the Work contemplated by this Settlement Agreement, EPA will be negotiating with the potentially responsible parties, including Respondents, for performance of a Remedial Investigation/Feasibility Study, which will result in the issuance of one or more proposed plans and the issuance of one or more Records of Decision which, collectively, will identify the final remedy for the Site. Such remedy may include modifications to the response actions being undertaken pursuant to this Settlement Agreement.

17. On July 8, 2011, NYSDEC informed EPA that due to budgetary constraints it could no longer continue operating the groundwater extraction wells and leachate collection system nor dispose of the contaminated groundwater and landfill leachate.

18. A geologic fault beneath and to the south of the LP and bedrock fracturing in its vicinity allows for greater hydraulic conductivity in the areas downgradient of the LP. Investigations in the 1990s indicated that the existing leachate collection system at the LP is not deep or extensive enough to provide hydraulic containment over the area of the former landfill, regardless of how much the collection system is pumped. If the current leachate collection system is not regularly pumped and the leachate disposed of, the leachate will not be contained and the leachate will likely flow over the slurry wall in greater quantities, increasing the amount of contaminants entering sensitive ecosystems in various tributaries and entering the aquifer.

19. The leachate collected by the leachate collection system contains VOCs including benzene, chlorobenzene, TCE, 1,2-dichloroethene, toluene and xylenes at levels of up to 50,000 parts per billion ("ppb").

20. A VOC groundwater plume has been identified extending from the LP to the south approximately to the vicinity of Central Nassau Road. Benzene and TCE are the primary contaminants within the downgradient groundwater plume and are present at levels significantly exceeding EPA removal action levels.

21. Currently four residential wells (located on three properties) to the south of the LP have been impacted by Site contaminants. Four additional residential wells are located within 300-1,000 feet from the edge of the contaminant plume. Groundwater in the vicinity of the edge of the plume flows generally to the south and southwest, towards these four additional residential wells.

22. The current groundwater extraction system was constructed by NYSDEC in an effort to intercept significant volumes of contaminants emanating from the LP, thereby reducing but not

eliminating the contaminant concentration at the leading edge of the contaminant plume and preventing the spread of the plume. Since 2008, three groundwater extraction wells have been operated from spring through fall by NYSDEC. In 2010, over 1,000,000 gallons of groundwater were collected and shipped off-Site to a treatment facility. In 2010, the extracted groundwater contained concentrations of up to 51,800 ppb of VOCs, including benzene concentrations as high as 8,100 ppb and TCE concentrations up to 35,000 ppb.

23. Based on the historical plume movement, the proximity of contaminated groundwater to these residences, the enhanced permeability of the fractured bedrock in the area, and the uncertain nature and rate of the groundwater flow patterns in this area, it is probable that the groundwater contaminant plume will continue to expand and could reach these additional residential wells at any time if the groundwater extraction wells are decommissioned.

24. There is no way of alerting residents that the contamination is about to impact them. Sampling will only confirm that the residents have already been impacted.

25. On August 15, 2011, EPA Region 2's Director of the Emergency and Remedial Response Division signed an Action Memorandum authorizing and funding a removal action at the Site which consists of the continued operation (pumping) and maintenance of the leachate collection system and the groundwater extraction wells, winterization of the extraction well system and the associated Frac tank to allow for continuous operation of the wells, and disposal of the collected leachate and groundwater, in order to prevent impacts to residential supply wells.

26. EPA has determined that alternatives to off-Site disposal of the extracted groundwater and leachate, including on-Site treatment, would be beneficial. Respondents have proposed to include as part of the Work being undertaken by Respondents under this Settlement Agreement, an expanded groundwater extraction system and construction of an on-Site treatment plant for groundwater and leachate, EPA's final approval of which is to be provided pursuant to this Settlement Agreement.

27. VOCs, including benzene, toluene, xylene, methyl-ethyl ketone, TCE, chlorobenzene, 1,2 dichlorobenzene, 1,4 dichlorobenzene, 1,1 dichloroethane, 1,2 dichloroethylene, and/or vinyl chloride are "hazardous substances" within the meaning of Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).

28. The discharge, dumping and/or disposal of hazardous substances at the Site constitutes a "release" of hazardous substances into the environment as the term "release" is defined in Section 101(22) of CERCLA, 42 U.S.C. § 9601(22). In addition, there is a threat of further releases of hazardous substances at and from the Site.

29. EPA alleges that Respondent GE is a responsible party with respect to the Site within the meaning of Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), because Respondent GE arranged

for the disposal or treatment of hazardous substances at the Site within the meaning of Section 107(a)(3) of CERCLA, 42 U.S.C. §9607(a)(3).

30. EPA alleges that Respondent SI is a responsible party with respect to the Site within the meaning of Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), because Respondent SI arranged for the disposal or treatment of hazardous substances at the Site within the meaning of Section 107(a)(3) of CERCLA, 42 U.S.C. §9607(a)(3).

31. Each Respondent is a "person" within the meaning of Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

32. The Site constitutes a "facility" within the meaning of Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

33. Respondents have been given an opportunity to discuss with EPA the basis for issuance of this Settlement Agreement and its terms.

34. Honeywell has declined to participate in this Settlement Agreement.

35. The actions required by this Settlement Agreement are necessary to protect the public health or welfare or the environment, are in the public interest, and are consistent with CERCLA and the National Oil and Hazardous Substances Pollution Contingency Plan ("NCP").

V. EPA'S DETERMINATIONS

36. The conditions present at the Site constitute a threat to public health, welfare, or the environment based upon factors set forth in Section 300.415(b)(2) of the NCP. These factors include, but are not limited to, the following conditions:

- a. Actual or potential contamination of drinking water supplies or sensitive ecosystems;
- b. Weather conditions that may cause hazardous substances, or pollutants, or contaminants to migrate or be released; and
- c. the unavailability of other appropriate federal or state response mechanisms to respond to the release.

37. EPA has determined that a removal action at this Site is necessary to address the release or threat of release of hazardous substances or pollutants or contaminants in the leachate and the groundwater at the Site.

38. The actions required by this Settlement Agreement are necessary to protect the public health or welfare or the environment, are in the public interest, and, if carried out in compliance with the terms of this Settlement Agreement, will be considered to be consistent with the NCP.

39. Based upon EPA's Findings of Fact and Conclusions of Law set forth above, and the administrative record supporting this removal action, EPA has determined that the actual or threatened release of hazardous substances from the Site may present an imminent and substantial endangerment to the public health, welfare or the environment within the meaning of Section 106(a) of CERCLA, 42 U.S.C. § 9606(a), and it is hereby agreed and ordered that Respondents shall undertake a removal action at the Site, as set forth in Section VI (Work To Be Performed), below.

VI. REMOVAL WORK TO BE PERFORMED

A. Designation Of Contractor and Designated Project Coordinator

40. Respondents have selected, and EPA has approved, Paul W. Hare of Respondent GE as Respondents' Project Coordinator for the Work required under this Settlement Agreement. The Project Coordinator shall be responsible on behalf of Respondents for oversight of the implementation of this Settlement Agreement. The Project Coordinator shall be knowledgeable at all times about all matters relating to the Work being performed under this Settlement Agreement. Respondents shall ensure that all Work requiring certification by a professional engineer licensed in the State of New York shall be reviewed and certified by such.

41. Respondents may change their Project Coordinator. Selection of such Project Coordinator shall be subject to approval by EPA in writing. If EPA disapproves a proposed Project Coordinator, Respondents shall propose a different person and notify EPA of that person's name, address, telephone number and qualifications within seven (7) days following EPA's disapproval. Such Project Coordinator shall not be an attorney engaged in the practice of law. He or she shall have the technical expertise sufficient to adequately oversee all aspects of the Work contemplated by this Settlement Agreement.

42. EPA correspondence related to this Settlement Agreement will be sent to the Project Coordinator on behalf of Respondents. To the extent possible, the Project Coordinator shall be present on-Site or readily available for EPA to contact during the Work until EPA issues a notice of completion of the Work in accordance with Paragraph 135. Notice by EPA in writing to the Project Coordinator shall be deemed notice to Respondents for all matters relating to the Work under this Settlement Agreement and shall be deemed effective upon receipt.

43. All activities required of Respondents under the terms of this Settlement Agreement shall be performed only by well-qualified persons possessing all necessary permits, licenses, and other authorizations required by Federal, State, and/or local governments consistent with Section 121

of CERCLA, 42 U.S.C. § 9621, and all Work conducted pursuant to this Settlement Agreement shall be performed in accordance with prevailing professional standards.

44. Respondents shall retain at least one contractor to perform the Work. Respondents have proposed, and EPA has approved, the use of ARCADIS U.S., Inc., as a contractor for the Work to be performed under this Settlement Agreement. Respondents shall also propose, for EPA approval, the name(s) and qualification(s) of any other contractor(s) or subcontractor(s) retained to perform the Work as part of their submittals required pursuant to Section VI.B., below. If Respondents are unable to propose such contractor(s) or subcontractor(s) needed to conduct the Work at the time of submission of the plans required pursuant to Section VI.B., then such contractor(s) and subcontractor(s) shall be identified to EPA at least 10 days prior to commencement of such Work. Respondents' proposal must be in writing and must include the names, titles, and qualifications of all personnel, including contractors, subcontractors, consultants and laboratories, to be used in carrying out the Work as described in this Settlement Agreement. All contractor(s) and subcontractor(s) are subject to EPA approval. With respect to any proposed contractor, Respondents shall demonstrate that the proposed contractor has a quality system which complies with ANSI/ASQC E4-1994, "Specifications and Guidelines for Quality Systems for Environmental Data Collection and Environmental Technology Programs," (American National Standard Institute, January 5, 1995) (hereinafter, "ANSI/ASQC E4-1994"), by submitting a copy of the proposed contractor's Quality Management Plan ("QMP"). The QMP should be prepared in accordance with "EPA Requirements for Quality Management Plans (QA/R-2)" (EPA/240/B-01/002, March 2001)(hereinafter, "QA/R-2"), or equivalent documentation as determined by EPA. The qualifications of the persons undertaking the Work for Respondents shall be subject to EPA's review for verification that such persons meet minimum technical background and experience requirements. This Settlement Agreement is contingent upon Respondents' demonstration to EPA's satisfaction that Respondents are qualified to perform properly and promptly the Work set forth in this Settlement Agreement and any other deliverable, or modification of a deliverable pursuant to Section VIII, below.

45. EPA retains the right to disapprove of any, or all, of the contractors and/or subcontractors proposed by Respondents to conduct the Work. If EPA disapproves in writing any of Respondents' proposed contractors to conduct the Work, Respondents shall propose a different contractor within fourteen (14) days of receipt of EPA's disapproval, or such other time as is agreed to by EPA.

46. Respondents shall provide a copy of this Settlement Agreement to each contractor and subcontractor approved and retained to perform the Work required by this Settlement Agreement. Respondents shall include in all contracts or subcontracts entered into for Work required under this Settlement Agreement provisions stating that such contractors or subcontractors, including their agents and employees, shall perform activities required by such contracts or subcontracts in compliance with this Settlement Agreement and all applicable laws and regulations. Respondents shall be responsible for ensuring that their contractors and

subcontractors perform the Work contemplated herein in accordance with this Settlement Agreement.

B. Description of Work

47. Respondents shall perform, at a minimum, all actions necessary to implement the Work set forth in this Paragraph. The actions to be implemented include, but may not be limited to, the following:

- a. operate and maintain year-round and full-time the leachate collection system and groundwater extraction well system unless, with prior EPA approval, such systems are shut down for routine maintenance;
- b. repair and/or upgrade of the groundwater extraction well system and the transfer components of the leachate collection system (i.e., pump, line and transfer station) as necessary for the continuous operation of both systems;
- c. transport and dispose of the collected leachate from the Site in accordance with all applicable regulations until an on-Site treatment plant that is able to treat leachate from the existing leachate collection system is operational and approval to begin discharging the leachate through the treatment plant has been provided by EPA in accordance with this Settlement Agreement;
- d. transport and dispose of the collected groundwater from the Site in accordance with all applicable regulations until such time as an on-Site treatment plant for groundwater is operational and approval to begin discharging the groundwater through the treatment plant has been provided by EPA in accordance with this Settlement Agreement;
- e. design, construct, operate, maintain and monitor the Pump and Treat System to meet the Discharge Requirements; and
- f. conduct such other investigations, studies and response actions as Respondents may propose and EPA may approve in accordance with this Settlement Agreement.

48. Within the timeframes specified in this Settlement Agreement, Respondents shall submit to EPA the following documents which, collectively, will constitute a Site Operating Plan ("SOP") for the Work in accordance with this Settlement Agreement, CERCLA, the NCP, EPA's relevant guidance documents and other applicable Federal and State laws and regulations:

- a. Project Management Plan;
- b. Pump and Truck Work Plan;

- c. Preliminary Design Plan for the Pump and Treat System (hereinafter “Preliminary Design Plan”);
- d. Preliminary Design Data Report;
- e. Design Report/Implementation Plan for the Pump and Treat System (hereinafter “Design Report/Implementation Plan”);
- f. Transportation and Disposal Plan (hereinafter “T&D Plan”);
- g. Health and Safety Plan;
- h. Quality Assurance Project Plan (hereinafter “QAPP”); and
- i. Construction Completion Report.

49. Within thirty (30) days of the Effective Date of this Settlement Agreement, Respondents shall submit a Project Management Plan which sets forth a management structure, including, but not limited to, identification of Respondents’ key personnel, contractors and overall project teams for the implementation of each component of the SOP and the associated responsibilities for each person or group. This plan may identify different management structures for different components of the Work required by this Settlement Agreement (e.g., the pump and truck operations and the design, construction, and operation, monitoring, and maintenance of the Pump and Treat System).

50. Within forty-five (45) days of the Effective Date of this Settlement Agreement, Respondents shall submit a Pump and Truck Work Plan which provides procedures for the operation and maintenance of the groundwater extraction system and the leachate collection system, as well as off-Site transport and disposal of the collected groundwater and leachate until an on-Site treatment plant capable of treating such groundwater and leachate is operational. At a minimum, this plan shall address the following:

- a. procedures for regular operation, maintenance and monitoring of the extraction well system and leachate collection system, including, but not limited to, inspection and maintenance checklists and schedules for inspection and maintenance activities;
- b. plans for general maintenance of the areas that are subject to or affected by the Work set forth in the Pump and Truck Plan, including maintenance of access roads, the fence surrounding the LP, structures including the pole barn, leachate collection system shed, leachate transfer station enclosure, and extraction well enclosures, and snow removal and grass cutting as necessary to access the

groundwater extraction well and leachate collection systems;

- c. a plan for providing security of the areas that are subject to or affected by the Work set forth in the Pump and Truck Plan, including, but not limited to, measures to be taken to keep unauthorized personnel from entering restricted work areas for the duration of the Work; and
- d. a schedule for operation of the pump and truck systems and general maintenance in areas subject to or affected by the Work set forth in the Pump and Truck Plan. The schedule shall provide for initiation of all field work no later than fifteen (15) days from the date of approval of the Pump and Truck Work Plan and T&D Plan.

51. Within thirty (30) days of the Effective Date of this Settlement Agreement, Respondents shall submit the Preliminary Design Plan which shall include, at a minimum:

- a. design criteria and a statement specifying that the Pump and Treat System will be designed to meet the effluent discharge limits set forth in the Discharge Requirements;
- b. results and a summary of any data gathering conducted by Respondents prior to this Settlement Agreement, as well as any other prior investigations EPA may identify, that EPA determines is necessary to complete the design and construction of the Pump and Treat System, including, but not limited to, placement of the extraction wells and/or discharge of the treatment system effluent;
- c. plans for conducting treatability studies if required by EPA to support design and construction of the Pump and Treat System;
- d. plans for collecting any additional data at the Site necessary to support the design and construction of the Pump and Treat System which may include pump tests, groundwater flow modeling, and bedrock fracture analyses;
- e. preliminary plans, drawings and sketches;
- f. required specifications in outline form; and
- g. a schedule for conducting the preliminary design investigations set forth in subparagraphs c. and d. above.

52. Within forty-five (45) days of EPA's approval of the Preliminary Design Plan, Respondents shall submit to EPA a Preliminary Design Data Report which includes the data obtained pursuant to Paragraphs 51.c and 51.d, as well as summary tables and a narrative. If based on EPA's

review of the Preliminary Design Data Report, EPA determines that additional data is necessary to complete the design for the Pump and Treat System, Respondents shall collect such additional data within forty five (45) days of receipt of EPA's comments and shall submit the additional data as part of the Design Report/Implementation Plan.

53. Within forty-five (45) days after submission to EPA of the Preliminary Design Data Report, unless a longer time is approved by EPA, Respondents shall submit a Design Report/Implementation Plan to EPA which continues and expands on the approved Preliminary Design Plan. The Design Report/Implementation Plan shall provide for the design of the Pump and Treat System to be constructed at the Site, and at a minimum, include the following:

- a. design criteria and a statement specifying that the systems will be designed to meet the effluent discharge limits set forth in the Discharge Requirements;
- b. all data gathered to support the design, including data gathered pursuant to Paragraph 52;
- c. a design, including detailed plans and drawings, for the extraction of contaminated groundwater from the bedrock through a series of wells, including the groundwater extraction wells currently in use at the Site. For each of the extraction wells, specify the depth, pumping rates, location, and estimated radius of influence and provide a narrative predicting the effect of the Pump and Treat System on the aquifer, based on historical and recent monitoring data and any additional data collected during field design studies. State the anticipated schedule for pumping of each of the extraction wells;
- d. a design for the treatment of extracted groundwater, including equipment specifications and process drawings;
- e. an evaluation, with supporting details, of whether the groundwater treatment system, as designed, could also treat leachate from the existing leachate collection system at the LP to the effluent discharge limits set forth in the Discharge Requirements, and, if so, a description of how it would treat such leachate.
- f. the discharge options for the treated groundwater and leachate. Provide a list and schedule of all regulatory approvals required, and provide a schedule for submittals to meet this schedule;
- g. the requirements and schedule for monitoring of the effluent from the treatment system;
- h. operation, maintenance and monitoring requirements of the Pump and Treat System;

- i. a plan for the management and disposition of on-Site soils excavated during the construction of the Pump and Treat System;
- j. a schedule for the construction and completion of the Pump and Treat System;
- k. a Construction Plan which shall include the following:
 - 1. detailed plans and schedules for construction activities, including:
 - i. identification of and methodology for complying with applicable regulatory requirements;
 - ii. procedures and plans for the decontamination of equipment and the disposal of contaminated materials;
 - iii. a schedule for all construction activities. The schedule shall provide for initiation of field work no later than seven (7) days from the date of approval of the Design Report/Implementation Plan; and
 - iv. procedures and schedule for the shakedown period required by Paragraph 54 below, including a testing protocol for ensuring compliance with the effluent discharge limits.
 - 2. a construction quality assurance plan which shall detail the approach to quality assurance during construction activities for the Pump and Treat System, including sampling, analysis, and monitoring to be performed during the construction phase of that system. Quality assurance items to be addressed include, at a minimum, the following:
 - i. inspection and certification of the construction;
 - ii. measurement and daily logging;
 - iii. field performance and testing;
 - iv. post-construction drawings; and
 - v. testing of the Pump and Treat System (*e.g.*, treatment system start-up sampling) to establish whether the design specifications have been attained.

1. a Removal Operation, Maintenance and Monitoring Plan ("Removal OM&M Plan") for the Pump and Treat System, including, but not limited to, the following components:

1. procedures for regular operation, maintenance and monitoring of the systems, including, but not limited to, inspection and maintenance checklists and schedules for inspection and maintenance activities;
2. plans for general maintenance of the areas that are subject to or affected by the Work set forth in the Design Report/Implementation Plan, including maintenance of access roads, the fence surrounding the LP and treatment building area, structures including the treatment building and any other enclosures which house parts of the Pump and Treat System, and snow removal and grass cutting as necessary to access all components of the Pump and Treat System;
3. a plan for providing security of the areas that are subject to or affected by the Work set forth in the Design Report/Implementation Plan, including, but not limited to, measures to be taken to keep unauthorized personnel from entering restricted work areas for the duration of the Work; and
4. a schedule for operation of the Pump and Treat System and general maintenance in areas subject to or affected by the Work set forth in the Design Report/Implementation Plan.
5. plans and a schedule for monitoring of the treatment system water in accordance with the QAPP requirements listed in Paragraphs 57 and 58 below, as well as a schedule for submission of the results to EPA and/or other parties to be determined by EPA; and

- m. a Performance Monitoring Plan for the Pump and Treat System including, but not be limited to:

1. tracking of the contaminant mass removal from the Pump and Treat System; and
2. monitoring of the areas within the plume and downgradient of the LP to determine the effect of the Pump and Treat System on the contaminant plume, the local aquifer(s), and the residential wells.

54. Within seven (7) days of EPA's approval of the Design Report/Implementation Plan, or as otherwise agreed to by EPA, Respondents shall begin construction of the Pump and Treat System in accordance with the EPA-approved Design Report/Implementation Plan. Once

construction is complete, Respondents shall notify EPA pursuant to Section VIII of this Settlement Agreement (Reporting and Notice to EPA), and EPA representatives will conduct an on-Site inspection of the system. Following this inspection and prior to discharge of treated water from the system directly to surface water, a "shakedown period" shall occur. During the shakedown period, Respondents shall collect data to support discharge of water from the system to surface water in accordance with the schedule set forth in the Design Report/Implementation Plan. Respondents shall provide sampling data from the system, including system effluent, to EPA, to demonstrate that the discharges from the system meet the effluent discharge limits set forth in the Discharge Requirements. During this shakedown period, treated discharge water from the system shall be containerized on-Site and sampled and may then, with EPA's prior approval, be discharged if the sampling data show that the effluent limits set forth in the Discharge Requirements have been met or, alternatively, shall be transported off-Site for proper disposal until EPA provides notice to Respondents that discharge through the treatment system directly to surface water may begin. At the conclusion of the shakedown period, EPA will provide interim approval to discharge from the treatment system to surface water if the effluent limits set forth in the Discharge Requirements are met. Following the conclusion of the shakedown period, Respondents shall present all shakedown data to EPA in the Construction Completion Report as detailed below in Paragraph 63.

55. Within forty-five (45) days of the Effective Date of this Settlement Agreement, Respondents shall submit a T&D Plan which outlines procedures for the proper transporting and disposing of all hazardous wastes and solid wastes generated during the Work. The T&D Plan shall include the identification of the proposed disposal facilities for all waste streams and include procedures for obtaining and submitting to EPA waste profile information, facility acceptance documentation, and analytical characterization of each waste stream. In addition the Plan shall include the following information to be determined and documented by the Respondents:

- a. the planned frequency and estimated quantity of waste to be collected;
- b. the valid RCRA transporter and disposal identification numbers for each proposed transporter and disposal facility;
- c. the date of the most recent State or EPA regulatory inspection of each proposed disposal facility, and any special provisions or conditions attached to the RCRA disposal permits as a result of the most recent inspection;
- d. documentation of the current permit status of proposed transporters and disposal facilities; and
- e. the schedule for reporting progress metrics for T&D, including date of each T&D event, waste stream, medium, quantity of waste, transporter of waste, manifest identification number (as applicable), and the designated treatment and/or

disposal facility, and for providing copies of final signed manifests, bills of lading, and certificates of destruction or disposal (as applicable) to the EPA On-Scene Coordinator (“OSC”) and Remedial Project Manager (“RPM”).

Respondents shall provide all of the information required in a. – e. above to the EPA OSC and RPM prior to shipping any hazardous waste off the Site.

After permitted disposal facilities have been identified, all wastes shall be properly manifested (if required under applicable regulations) and shipped off-Site via permitted transporters. All final signed manifests, bills of lading and certificates of destruction or disposal (as applicable) shall be provided to the OSC and RPM in accordance with the schedule set forth in the T&D Plan, as approved by EPA.

56. Within thirty (30) days of the Effective Date of this Settlement Agreement, Respondents shall submit a Health and Safety Plan which ensures the protection of the public health and safety during performance of on-Site work under this Settlement Agreement. This Health and Safety Plan shall apply to all activities relating to both the pump and truck operations and the Pump and Treat System. The Health and Safety Plan shall be submitted to EPA prior to the start of any field activities. This plan shall be prepared in accordance with the “EPA Standard Operating Safety Guide” (PUB 9285.1-03, PB 92-963414, June 1992). In addition, the plan shall comply with all currently applicable Occupational Safety and Health Administration (“OSHA”) regulations found at 29 C.F.R. Part 1910. The plan shall also include contingency planning. Respondents shall incorporate all changes to the plan required by EPA and shall implement the plan during the duration of the removal action. The Health and Safety Plan, at a minimum, shall address the following:

- a. Delineation of the work zones;
- b. Personnel monitoring requirements, paying particular attention to monitoring specific job functions in compliance with OSHA requirements;
- c. Personal protective equipment requirements and upgrade thresholds based on real-time air monitoring;
- d. Demonstration that all personnel, including subcontractor personnel, have current certifications as per applicable OSHA regulations;
- e. Decontamination procedures for personnel and equipment exiting any hot zone;
- f. Compliance with OSHA requirements for Health and Safety Plans; and
- g. Vehicular traffic during Site-related activities.

If performance of any of the work required by this Settlement Agreement requires alteration of the Health and Safety Plan, Respondents shall submit to EPA for review and comment proposed amendments to the Health and Safety Plan.

57. Within thirty (30) days of the Effective Date of this Settlement Agreement, Respondents shall submit a QAPP which shall apply to both the pump and truck operations and the Pump and Treat System. The QAPP shall contain the following:

- a. All sampling and analyses performed pursuant to this Settlement Agreement shall conform to EPA policy and guidance regarding sampling, quality assurance, quality control, data validation, and chain of custody procedures. Respondents shall include a description of how sampling data will be submitted in a manner that is consistent with the Region 2 Electronic Data Deliverable (EDD) format (information available at www.epa.gov/region02/superfund/medd.htm). Respondents shall incorporate these procedures into the QAPP in accordance with the Uniform Federal Policy for Implementing Quality Systems ("UFP-QS"), EPA-505-F-03-001, March 2005; Uniform Federal Policy for Quality Assurance Project Plans ("UFP-QAPP"), Parts 1, 2, and 3, EPA-505-B-04-900A, B, and C, March 2005 or newer; and other guidance documents referenced in the aforementioned guidance documents. Subsequent amendments to the above, upon notification by EPA to Respondents of such amendments, shall apply only to procedures conducted after such notification.
- b. If performance of any of the work required by this Settlement Agreement requires alteration of the QAPP, Respondents shall submit to EPA for review and approval proposed amendments to the QAPP.
- c. Respondents shall conduct the appropriate level of data verification/validation and provide the specified data deliverables as provided in the EPA-approved QAPP.
- d. The QAPP shall require that any laboratory utilized by Respondents is certified for the matrix/analyses which are to be conducted for any work performed pursuant to this Order, by one of the following accreditation/certification programs: USEPA Contract Laboratory Program ("CLP"), National Environmental Laboratory Accreditation Program ("NELAP"), American Association for Laboratory Accreditation ("A2LA"), or a certification issued by a program conducted by a state, and acceptable to EPA, for the analytic services to be provided. The QAPP shall require Respondents to submit laboratory certificates from such accreditation programs that are valid at the time samples are analyzed. If a specific analytical service is unavailable from a certified laboratory, EPA may within its discretion, approve Respondents' utilization of a laboratory that is not certified. EPA approval shall be based on Respondents' submittal of a written request, submittal of the laboratory quality assurance plan,

and the laboratory's demonstration of capability through the analysis of performance evaluation samples for the constituents of concern.

- e. In their contract(s) with laboratories utilized for the analyses of samples, Respondents shall require the granting of access to EPA personnel and authorized representatives to the laboratories for the purpose of ensuring the accuracy of laboratory results related to the Site.
- f. For any analytical work performed under this Settlement Agreement, including but not limited to that performed in a fixed laboratory, in a mobile laboratory, or in on-Site screening analyses, Respondents shall submit to EPA, within thirty (30) days after receipt of the analytical results, a "Non-CLP Superfund Analytical Services Tracking System" form with respect to each laboratory utilized during a sampling event. Each such form shall be submitted to the EPA OSC and Remedial Project Manager ("RPM"), and a copy of the form and transmittal letter shall also be sent to:

Regional Sample Control Center Coordinator (RSCC)
USEPA, Division of Environmental Science & Assessment
MS-215
2890 Woodbridge Avenue
Edison, New Jersey 08837.

58. The QAPP shall include detailed procedures, methods and sampling parameters to be implemented to sample and analyze the contaminants found in groundwater, leachate and soil, if necessary, that are required for off-Site transport and disposal, and (if necessary) to insure proper staging of materials into compatible waste groups for disposal.

59. Upon request by EPA, Respondents shall allow EPA or its authorized representatives to take split and/or duplicate samples of any samples collected by Respondents while performing Work under this Settlement Agreement. Respondents shall notify EPA not less than seven (7) days in advance of any sample collection activity or within a shorter period if agreed to by EPA.

60. Upon EPA's request, Respondents shall submit to EPA all laboratory data collected and received by Respondents. Such data shall be in an EPA approved database format.

61. EPA will either approve each section of the SOP, or will require modifications thereto pursuant to Section VII (Plans and Reports Requiring EPA Approval), below. Upon approval by EPA of each component of the SOP, such section shall be deemed to be incorporated into and an enforceable part of this Settlement Agreement.

62. Respondents shall fully implement that portion of the Work described in each approved component of the SOP in accordance with the terms and schedule therein and in accordance with this Settlement Agreement.

63. Upon completion of construction of the Pump and Treat System and within thirty (30) days of the conclusion of the shakedown period as set forth in Paragraph 54 above, Respondents shall submit to EPA a Construction Completion Report for the Pump and Treat System. This report shall include, but not be limited to, as-built drawings of the entire system, all data collected during the shakedown period and a final Removal OM&M Plan for the system. Unless approval to begin discharge was granted earlier pursuant to Paragraph 54, upon EPA's approval of the final Construction Completion Report, Respondents shall begin discharge of treated water from the system directly to surface water and discontinue the trucking and off-Site disposal of the collected groundwater and leachate.

64. Respondents shall conduct the Work required hereunder in accordance with CERCLA and the NCP, and in addition to guidance documents referenced above, the following guidance documents: *EPA Region 2's "Clean and Green Policy"* which may be found at <http://epa.gov/region2/superfund/greenremediation/policy.html>, and Guide to Management of Investigation-Derived Wastes (OSWER Publication 9345.3-03FS, January 1992), as they may be amended or modified by EPA.

C. On-Scene Coordinator, Remedial Project Manager, Other Personnel, and
Modifications to EPA-Approved SOP

65. All activities required of Respondents under the terms of this Settlement Agreement shall be performed only by qualified persons possessing all necessary permits, licenses, and other authorizations required by the Federal government and the State of New York, and all work conducted pursuant to this Settlement Agreement shall be performed in accordance with prevailing professional standards.

66. The current EPA OSC for the Site is: Margaret Alferman, Removal Action Branch, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, Region 2, 2890 Woodbridge Avenue, Building 205 (MS-211), Edison, New Jersey 08837, telephone number 732-321-4424, alferman.margaret@epa.gov. EPA will notify Respondents' Project Coordinator if EPA designates a different OSC for this Site.

67. The current EPA RPM for the Site is: Ben Conetta, New York Remediation Branch, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, Region 2, 290 Broadway, Floor 19, New York, New York 10007, telephone number 212-637-3030, conetta.benny@epa.gov. EPA will notify Respondents' Project Coordinator if EPA designates a different RPM for this Site.

68. EPA, including the OSC, the RPM, and/or their authorized representatives, will conduct oversight of the implementation of this Settlement Agreement. The OSC and RPM shall have the authority vested in an OSC and RPM by the NCP, 40 C.F.R. Part 300, including the authority to halt, conduct, or direct any Work required by this Settlement Agreement, or to direct any other response action undertaken by EPA or Respondents at the Site consistent with this Settlement Agreement. Absence of the OSC and/or RPM from the Site shall not be cause for stoppage of Work unless specifically directed by the OSC and/or RPM.

69. As appropriate during the course of implementation of the actions required of Respondents pursuant to this Settlement Agreement, Respondents or their consultants or contractors, acting through the Project Coordinator, may confer with EPA concerning the required actions. Based upon new circumstances or new information not in the possession of EPA on the Effective Date of this Settlement Agreement, the Project Coordinator may request, in writing, EPA approval of modification(s) to the EPA-approved SOP (except for the Health and Safety Plan). Only modifications approved by EPA in writing shall be deemed effective. Upon approval by EPA, such modifications shall be deemed incorporated into this Settlement Agreement and shall be implemented by Respondents.

VII. PLANS AND REPORTS REQUIRING EPA APPROVAL

70. If EPA disapproves or otherwise requires any modifications to any plan, report or other item required to be submitted to EPA for approval pursuant to this Settlement Agreement, Respondents shall have fourteen (14) days from the receipt of notice of such disapproval or the required modifications to correct any deficiencies and resubmit the plan, report, or other written document to EPA for approval, unless a shorter or longer period is specified in the notice. Any notice of disapproval will include an explanation of why the plan, report, or other item is being disapproved. Respondents shall address each of the comments and resubmit the plan, report, or other item with the required changes within the time stated above. At such time as EPA determines that the plan, report, or other item is acceptable, EPA will transmit to Respondents a written statement to that effect.

71. If any plan, report, or other item required to be submitted to EPA for approval pursuant to this Settlement Agreement is disapproved by EPA after being resubmitted following Respondents' receipt of EPA's comments on the initial submittal, Respondents shall be deemed to be out of compliance with this Settlement Agreement. If any resubmitted plan, report, or other item, or portion thereof, is disapproved by EPA, EPA may again direct Respondents to make the necessary modifications thereto, and/or EPA may amend or develop the item(s) and recover the costs of doing so from Respondents. Respondents shall implement any such item(s) as amended or developed by EPA.

72. EPA shall be the final arbiter in any dispute regarding the sufficiency or acceptability of all documents submitted and all activities performed pursuant to this Settlement Agreement, subject to Section XVIII (Dispute Resolution). EPA may modify those documents and/or perform or

require the performance of additional work unilaterally. EPA also may require Respondents to perform additional work unilaterally to accomplish the objectives set forth in this Settlement Agreement.

73. All plans, reports and other submittals required to be submitted to EPA pursuant to this Settlement Agreement, upon approval by EPA, shall be deemed to be incorporated into and an enforceable part of this Settlement Agreement.

VIII. REPORTING AND NOTICE TO EPA

74. Commencing on the tenth (10th) day of the month after the Effective Date of this Settlement Agreement, unless there is active field work at the Site, Respondents shall provide monthly progress reports. Whenever, during the implementation of this Settlement Agreement, Respondents are engaged in active field work (e.g., during start-up periods or construction) Respondents shall provide EPA with daily oral progress reports, as well as written progress reports every seven (7) days unless EPA determines that less frequent progress reports are appropriate. The first written progress report during active field work shall be submitted within seven (7) days of the commencement of field work. All progress reports shall fully describe all actions and activities undertaken pursuant to this Settlement Agreement. Such progress reports shall, among other things: (a) describe the actions taken toward achieving compliance with this Settlement Agreement during the previous reporting period; (b) include all results of sampling and tests and all other data received by Respondents after the later of the previous weekly progress report or the most recent monthly progress report submitted to EPA; (c) include a listing of quantities and types of materials removed from the Site and relevant documentation generated during the Work (e.g., manifests and bills of lading); (d) describe all actions which are scheduled for the next month; (e) provide other information relating to the progress of Work as is customary in the industry; and (f) include information regarding percentage of completion, all delays encountered or anticipated that may affect the future schedule for completion of the Work required hereunder, and a description of all efforts made to mitigate those delays or anticipated delays.

75. Respondents shall provide EPA with at least one (1) week advance notice of any change in the schedule.

76. The final report referred to in Paragraph 78, below, and other documents submitted by Respondents to EPA which purport to document Respondents' compliance with the terms of this Settlement Agreement shall be signed by a responsible official of Respondents or by the Project Coordinator designated pursuant to Paragraph 40. For purposes of this Paragraph, a responsible official is an official who is in charge of a principal business function.

77. All deliverables, notices and other documents required to be submitted to EPA under this Settlement Agreement shall be sent to the following addressees:

2 hard copies and 1 electronic copy to:

U.S. Environmental Protection Agency Region II
2890 Woodbridge Avenue
Building 205 (MS-211)
Edison, New Jersey 08837
Attention: Dewey Loeffel Landfill On-Scene Coordinator
alferman.margaret@epa.gov

2 hard copies and 1 electronic copy to:

U.S. Environmental Protection Agency Region II
290 Broadway
Floor 19
New York, New York 10007
Attention: Dewey Loeffel Landfill Remedial Project Manager
conetta.benny@epa.gov

1 electronic copy to:

New York/Caribbean Superfund Branch
Office of Regional Counsel
United States Environmental Protection Agency Region II
290 Broadway, 17th Floor
New York, New York 10007-1866
Attention: Attorney for Dewey Loeffel Site
kivowitz.sharon@epa.gov

1 hard copy and 1 electronic copy to:

Michael Komoroske
Environmental Engineer 3
NYSDEC
Remedial Bureau B
Division of Environmental Remediation
625 Broadway, 12th Floor
Albany, NY 12233-7016
mjkomoro@gw.dec.state.ny.us

All notices and other documents will be sent to the Respondents at the following address (in hard copy and by electronic mail):

Paul W. Hare

General Electric Company
319 Great Oaks Boulevard
Albany, NY 12203
paul.hare@ge.com

78. Within thirty (30) days after completion of the Work required by the SOP under this Settlement Agreement, Respondents shall submit for EPA review and approval a final report ("Final Report") summarizing the actions taken to comply with this Settlement Agreement. The Final Report shall include the following:

- a. A synopsis of all Work performed under this Settlement Agreement;
- b. A detailed description of all EPA-approved modifications to the SOP which occurred during Respondents' performance of the Work required under this Settlement Agreement;
- c. A listing of quantities and types of materials removed from the Site or handled on-Site;
- d. A discussion of removal and disposal options considered for those materials;
- e. A listing of the ultimate destination of those materials;
- f. A presentation of the analytical results of all sampling and analyses performed, including Quality Assurance/Quality Control data and chain of custody records;
- g. Accompanying appendices containing all relevant documentation generated during the Work (e.g. manifests, bills of lading, invoices, bills, certificates of treatment and disposal);
- h. An accounting of expenses incurred by Respondents in performing the Work; and
- i. The following certification signed by a person who supervised or directed the preparation of the Final Report:

"I certify that, to the best of my knowledge, after appropriate inquiries of all relevant persons involved in the preparation of the report, the information contained in and accompanying this document is true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fines and imprisonment for knowing violations."

79. EPA either will approve the Final Report or will require modifications thereto pursuant to Section VII (Plans and Reports Requiring EPA Approval).

IX. OVERSIGHT

80. During the implementation of the requirements of this Settlement Agreement, Respondents and their contractor(s) and subcontractors shall be available for such conferences with EPA and inspections by EPA or its authorized representatives as EPA may determine are necessary to adequately oversee the Work being carried out or to be carried out by Respondents, including inspections at the Site and at laboratories where analytical work is being done hereunder.

81. Respondents and their employees, agents, contractor(s) and consultant(s) shall cooperate with EPA in its efforts to oversee Respondents' implementation of this Settlement Agreement.

X. COMMUNITY RELATIONS

82. Respondents shall cooperate with EPA in providing information relating to the Work required hereunder to the public. As requested by EPA, Respondents shall participate in the preparation of all appropriate information disseminated to the public; participate in public meetings which may be held or sponsored by EPA to explain activities at or concerning the Site; and provide a suitable location for public meetings, as needed.

XI. ACCESS TO PROPERTY

83. Respondents shall at all times permit EPA, NYSDEC, and their designated representatives full access to and freedom of movement at the Site and any other premises where Work under this Agreement and Order is to be performed for purposes of inspecting or observing Respondent's progress in implementing the requirements of this Agreement and Order, verifying the information submitted to EPA by Respondent, conducting investigations relating to contamination at the Site, or for any other purpose EPA determines to be reasonably related to EPA oversight of the implementation of this Agreement and Order. Respondents agree to provide EPA and its designated representatives with access to inspect and copy all records, files, photographs, documents, sampling and monitoring data, and other writings related to Work undertaken in carrying out this Settlement Agreement. All parties with access to the Site under this Paragraph shall comply with the Health and Safety Plan.

84. a. If any area to which access is necessary to perform Work under this Settlement Agreement is owned in whole or in part by parties other than Respondents, or if access to any properties other than the Site is needed to carry out any of the Work, Respondents shall use its best efforts to obtain access agreements from the present owners within thirty (30) days of the Effective Date of this Settlement Agreement, or of the date when it is determined that access to such other properties is needed, as the case may be. All agreements pursuant to this Section shall provide access for EPA and NYSDEC and their contractors and oversight officials, and agreements for such access shall specify that Respondents are not EPA's or NYSDEC's representative with respect to liability associated with Site activities. Copies of such agreements

shall be provided to EPA and NYSDEC upon request prior to Respondents' initiation of field activities.

b. Respondents shall immediately notify EPA if after using their best efforts they are unable to obtain such access agreements. For purposes of this Settlement Agreement, "best efforts" shall include identifying the present owners of such properties, taking appropriate steps to contact such owners, and in the event of refusal or other failure to obtain access, promptly advising EPA in writing of such efforts. "Best efforts" may include the payment of reasonable sums of money in consideration of access. Respondents shall describe in writing their efforts to obtain such access.

c. If access agreements are not obtained within the time referenced above, Respondents shall immediately notify EPA of their failure to obtain access. EPA may, in its sole discretion, (i) obtain access for Respondents, (ii) perform those tasks or activities with EPA contractors, or (iii) terminate this Settlement Agreement. Respondents shall reimburse EPA for all costs and attorney's fees incurred by the United States in obtaining such access, in accordance with the procedures in Paragraph 99. If EPA performs those tasks or activities with EPA contractors and does not terminate the Settlement Agreement, Respondents shall perform all other tasks or activities not requiring access to that property, and shall reimburse EPA for all costs incurred in performing such tasks or activities. Respondents shall integrate the results of any such tasks or activities undertaken by EPA into its plans, reports and other deliverables.

XII. AVAILABILITY OF INFORMATION AND RECORD RETENTION

85. a. All data, records, photographs and other information created, maintained or received by Respondents or their agents, contractors or consultants in connection with implementation of the Work under this Settlement Agreement, including but not limited to contractual documents, quality assurance memoranda, raw data, field notes, laboratory analytical reports, invoices, receipts, work orders and disposal records, shall, without delay, be made available to EPA on request. Upon request by EPA, Respondents shall provide copies of all such documents and other items. Respondents may assert that certain documents, records and other information are privileged under the attorney-client privilege or any other privilege recognized by federal law. If Respondents assert such a privilege in lieu of providing documents, they shall provide EPA with the following: 1) the title of the document, record, or information; 2) the date of the document, record, or information; 3) the name and title of the author of the document, record, or information; 4) the name and title of each addressee and recipient; 5) a description of the contents of the document, record, or information; and 6) the privilege asserted by Respondents. However, no documents, reports or other information created or generated pursuant to the requirements of this Settlement Agreement shall be withheld on the grounds that they are privileged.

b. Upon request by EPA or its designated representatives, Respondents shall provide EPA or its designated representatives with duplicate and/or split samples of any material

sampled in connection with the implementation of this Settlement Agreement, or allow EPA or its designated representatives to take such duplicate or split samples.

86. Respondents may assert a claim of business confidentiality under 40 C.F.R. § 2.203, covering part or all of the information submitted to EPA pursuant to the terms of this Settlement Agreement, provided such claim is allowed by Section 104(e)(7) of CERCLA, 42 U.S.C. § 9604(e)(7). This claim shall be asserted in the manner described by 40 C.F.R. § 2.203(b) and substantiated at the time the claim is made. Information determined to be confidential by EPA will be given the protection specified in 40 C.F.R. Part 2. If no such claim accompanies the information when it is submitted to EPA, it may be made available to the public by EPA without further notice to Respondents. Respondents agree not to assert confidentiality claims with respect to any data related to Site conditions, sampling, or monitoring.

87. Notwithstanding any other provision of this Settlement Agreement, EPA hereby retains all of its information gathering, access and inspection authority under CERCLA, RCRA, the Toxic Substances Control Act ("TSCA"), 15 U.S.C. § 2601, et seq., and any other applicable statute or regulation.

88. In entering into this Settlement Agreement, Respondents waive any objections to any data gathered, generated, or analyzed by EPA or Respondents in the performance or oversight of the Work under this Settlement Agreement that has been verified according to the QAPP required pursuant to this Settlement Agreement. If Respondents object to any other data relating to this Settlement Agreement which is submitted in a progress report in accordance with Paragraph 74 herein; Respondents shall submit to EPA a report that identifies and explains their objections, describes their views regarding the acceptable uses of the data, if any, and identifies any limitations to the use of the data. The report must be submitted to EPA within forty-five (45) days of the periodic progress report containing the data.

89. Respondents shall preserve all documents and information relating to Work performed under this Settlement Agreement, or relating to Waste materials found on or released from the Site, for ten (10) years after completion of the Work required by this Settlement Agreement. At the end of the ten (10) year period, Respondents shall notify EPA at least thirty (30) days before any such document or information is destroyed that such documents and information are available for inspection. Upon request, Respondents shall provide EPA with the originals or copies of such documents and information.

XIII. OFF-SITE SHIPMENTS

90. Before shipping any hazardous substances and pollutants or contaminants removed from the Site pursuant to this Settlement Agreement for off-Site treatment, storage, or disposal, Respondents shall obtain EPA's determination of acceptability under 40 C.F.R. § 300.440 that the proposed receiving facility is operating in compliance with (a) Section 121(d)(3) of CERCLA, 42 U.S.C. § 9621(d)(3), (b) Section 300.440 of the NCP, (c) the Clean Air Act

("CAA"), 42 U.S.C. § 7401, et seq., (d) RCRA, (e) TSCA, and (f) all other applicable Federal and State requirements. Respondents shall only send hazardous substances, pollutants, or contaminants from the Site to an off-Site facility that complies with the requirements of the statutory provisions and regulations cited in the preceding sentence.

91. If hazardous substances from the Site are to be shipped outside of New York, Respondents shall provide prior notification of such Waste shipments in accordance with the EPA Memorandum entitled "Notification of Out-of-State Shipments of Superfund Site Wastes" (OSWER Directive 9330.2-07, September 14, 1989). At least five (5) working days prior to such Waste shipments, Respondents shall notify the environmental agency of the accepting state of the following: (a) the name and location of the facility to which the Wastes are to be shipped; (b) the type and quantity of Waste to be shipped; (c) the expected schedule for the Waste shipments; (d) the method of transportation and name of transporter; and (e) the treatment and/or disposal method of the Waste streams.

XIV. COMPLIANCE WITH OTHER LAWS

92. All actions required pursuant to this Settlement Agreement shall be performed in accordance with all applicable Federal and State laws and regulations except as provided in CERCLA § 121(e)(1), 42 U.S.C. § 9621(e)(1), and 40 C.F.R. § 300.415(j). In accordance with 40 C.F.R. § 300.415(j), all on-Site actions required pursuant to this Settlement Agreement shall, to the extent practicable, as determined by EPA, considering the exigencies of the situation, attain applicable or relevant and appropriate requirements ("ARARs") under Federal environmental or State environmental or facility siting laws. (See "Superfund Removal Procedures: Guidance on the Consideration of ARARs During Removal Actions," OSWER Directive No. 9360.3-02, August 1991).

93. Except as provided in Section 121(e)(1) of CERCLA, 42 U.S.C. § 9621(e)(1), and the NCP, no permit shall be required for any portion of the Work required hereunder that is conducted entirely on-Site. Where any portion of the Work requires a Federal or State permit or approval, Respondents shall submit timely applications and shall take all other actions necessary to obtain and to comply with all such permits or approvals. This Settlement Agreement is not, nor shall it be construed to be, a permit issued pursuant to any Federal or State statute or regulation.

XV. EMERGENCY RESPONSE AND NOTIFICATION OF RELEASES

94. Upon the occurrence of any event during performance of the Work required hereunder which, pursuant to Section 103 of CERCLA, 42 U.S.C. § 9603, requires reporting to the National Response Center, Respondents shall immediately orally notify the OSC at 732-321-4424 and the National Response Center at (800) 424-8802 of the incident or Site conditions. Respondents shall also submit a written report to EPA within seven (7) days after the onset of such an event, setting forth the events that occurred and the measures taken or to be taken, if any, to mitigate any release or endangerment caused or threatened by the release and to prevent the reoccurrence

of such a release. The reporting requirements of this Paragraph are in addition to, not in lieu of, reporting under CERCLA Section 103, 42 U.S.C. § 9603, and Section 304 of the Emergency Planning and Community Right-To-Know Act of 1986, 42 U.S.C. § 11004.

95. In the event of any action or occurrence arising from or relating to Respondents' performance of the requirements of this Settlement Agreement which causes or threatens to cause a release of a hazardous substance or which may present an immediate threat to public health or welfare or the environment, Respondents shall immediately take all appropriate action to prevent, abate, or minimize the threat and shall immediately notify EPA as provided in the preceding Paragraph. Respondents shall take such action in accordance with applicable provisions of this Settlement Agreement including, but not limited to, the Health and Safety Plan. In the event that EPA determines that: (a) the activities performed pursuant to this Settlement Agreement; (b) significant changes in conditions at the Site; or (c) emergency circumstances occurring at the Site pose a threat to human health or the environment, EPA may direct Respondents to stop further implementation of any actions pursuant to this Settlement Agreement or to take other and further actions reasonably necessary to abate the threat.

96. Nothing in the preceding Paragraph shall be deemed to limit any authority of the United States to take, direct, or order all appropriate action to protect human health and the environment or to prevent, abate, or minimize an actual or threatened release of hazardous substances on, at, or from the Site.

XVI. REIMBURSEMENT OF COSTS

97. Respondents shall pay to EPA \$800,000 for Response Costs as follows: \$150,000 within ten (10) days of the Effective Date and the remaining \$650,000 within thirty (30) days of the Effective Date. When it is available, EPA will provide Respondents with a printout of cost data in EPA's financial management system covering this initial \$800,000 in Response Costs. Respondent may dispute such costs in accordance with Section XVIII below.

98. Respondents hereby agree to reimburse EPA for all other Response Costs in excess of \$800,000 that are not inconsistent with the NCP. EPA will periodically send billings to Respondents for Response Costs. The billings will be accompanied by a printout of cost data in EPA's financial management system. Respondents shall remit payment to EPA via EFT within thirty (30) days of receipt of each such billing.

99. To effect payment via EFT, Respondents shall instruct their bank to remit payment in the required amount via EFT using the following information, or such other updated EFT information that EPA may subsequently provide to Respondents:

- . Amount of payment
- . Bank: **Federal Reserve Bank of New York**
- . Account code for Federal Reserve Bank account receiving the payment: **68010727**

- . Federal Reserve Bank ABA Routing Number: **021030004**
- . SWIFT Address: **FRNYUS33**
33 Liberty Street
New York, NY 10045
- . Field Tag 4200 of the Fedwire message should read:
D 68010727 Environmental Protection Agency
- . Name of remitter:
- . Settlement Agreement Index number: **CERCLA-02-2012-2005**
- . Site/spill identifier: **A2-23**

At the time of payment, Respondents shall send notice that such payment has been made by email to acctsreceivable.cinwd@epa.gov, rice.richard@epa.gov and to:

U.S. Environmental Protection Agency
Cincinnati Finance Office
26 Martin Luther King Drive
Cincinnati, OH 45268

and:

Margaret Alferman, On-Scene Coordinator
Emergency and Remedial Response Division
2890 Woodbridge Avenue
Building 205 (MS-211)
Edison, New Jersey 08837

and:

Ben Conetta, Remedial Project Manager
Emergency and Remedial Response Division
290 Broadway
Floor 19
New York, New York 10007

as well as to:

Sharon E. Kivowitz
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
290 Broadway, 17th Floor
New York, New York 10007-1866

Such notice shall reference the date of the EFT, the payment amount, the name of the Site, the Settlement Agreement index number, and Respondents' names and addresses.

The total amount to be paid by Respondents pursuant to this Paragraph shall be deposited into the Dewey Loeffel Landfill Superfund Site Special Account within the EPA Hazardous Substance Superfund to be retained and used to conduct or finance response actions at or in connection with the Site, or to be transferred by EPA to the EPA Hazardous Substance Superfund.

100. Respondents shall pay Interest on any amounts overdue under Paragraphs 97 and 98 above. Such Interest shall begin to accrue on the first day that payment is overdue. Interest shall accrue at the rate of interest on investments of the Hazardous Substances Superfund, in accordance with Section 107(a) of CERCLA, 42 U.S.C. § 9607(a).

XVII. FORCE MAJEURE

101. "Force majeure," for purposes of this Settlement Agreement, is defined as any event arising from causes beyond the control of Respondents and of any entity controlling, controlled by, or under common control with Respondents, including their contractors and subcontractors, that delays the timely performance of any obligation under this Settlement Agreement notwithstanding Respondents' best efforts to avoid the delay. The requirement that Respondents exercise "best efforts to avoid the delay" includes using best efforts to anticipate any potential force majeure event and best efforts to address the effects of any potential force majeure event: (a) as it is occurring; and (b) following the potential force majeure event, such that the delay is minimized to the greatest extent practicable. Examples of events that are not force majeure events include, but are not limited to, increased costs or expenses of any Work to be performed under this Settlement Agreement or the financial difficulty of Respondents to perform such Work.

102. If any event occurs or has occurred that may delay the performance of any obligation under this Settlement Agreement, whether or not caused by a force majeure event, Respondents shall notify by telephone the EPA OSC and RPM, or, in their absence, the Chief of the Removal Action Branch of the Emergency and Remedial Response Division of EPA Region II at 732-321-6658 within forty-eight (48) hours of when Respondents knew or should have known that the event might cause a delay. In addition, Respondents shall notify EPA in writing within seven (7) calendar days after the date when Respondents first become aware or should have become aware of the circumstances which may delay or prevent performance. Such written notice shall be accompanied by all available and pertinent documentation, including third-party correspondence, and shall contain the following: (a) a description of the circumstances, and Respondents' rationale for interpreting such circumstances as being beyond their control (should that be Respondents' claim); (b) the actions (including pertinent dates) that Respondents have taken and/or plan to take to minimize any delay; and (c) the date by which or the time period within which Respondents propose to complete the delayed activities. Such notification shall not

relieve Respondents of any of their obligations under this Settlement Agreement. Respondents' failure to timely and properly notify EPA as required by this Paragraph shall constitute a waiver of Respondents' right to claim an event of force majeure. The burden of proving that an event constituting a force majeure has occurred shall rest with Respondents.

103. If EPA determines that a delay in performance of a requirement under this Settlement Agreement is or was attributable to a force majeure, the time period for performance of that requirement shall be extended as deemed necessary by EPA. Such an extension shall not alter Respondents' obligation to perform or complete other tasks required by the Settlement Agreement which are not directly affected by the force majeure. Respondents shall use their best efforts to avoid or minimize any delay or prevention of performance of their obligations under this Settlement Agreement.

XVIII. DISPUTE RESOLUTION

104. Respondents may invoke the following dispute resolution procedures in the event of a dispute between Respondents and EPA regarding EPA's disapproval of, or required revisions to, the SOP (with the exception of the Pump and Truck Work Plan and associated documents), the Final Report pursuant to Paragraph 78, costs paid in accordance with Paragraph 97, a bill sent to Respondents pursuant to Paragraph 98, or a demand for stipulated penalties pursuant to Paragraph 105:

- a. Respondents shall notify the RPM and the OSC, in writing, of their objections according to the timeframes as follows: 1) within fourteen (14) days of receipt by Respondents of a disapproval notice or notice of required revisions to the SOP (with the exception of the Pump and Truck Work Plan and associated documents) or the Final Report pursuant to Paragraph 78; 2) within twenty-one (21) days of receipt by Respondents of the printout of cost data in EPA's financial management system covering costs paid pursuant to Paragraph 97; 3) within twenty-one (21) days of receipt by Respondents of a bill for Response Costs pursuant to Paragraph 98; or 4) within twenty-one (21) days of receipt by Respondents of a demand for stipulated penalties pursuant to Section XIX. Respondents' written objections shall define the dispute, state the basis of Respondents' objections, and be sent to EPA by certified mail, return receipt requested, overnight delivery or courier. EPA and Respondents will then have an additional fourteen (14) days, or such further time as may be agreed to by EPA and Respondents, to reach agreement. If an agreement is not reached within that period, Respondents may, within seven (7) days of the conclusion of that period, request a determination on the matter in dispute by the Director of the Emergency and Remedial Response Division, EPA Region 2 (hereinafter, the "ERRD Director"). Such a request shall be made in writing. The ERRD Director will issue a determination on the matter in dispute, which determination is EPA's final decision.

- b. There shall be no judicial review of a final EPA decision under Paragraph 104.a. above. Respondents shall proceed in accordance with EPA's final decision regarding the matter in dispute under Paragraph 104.a., regardless of whether Respondents agree with the decision. To the extent necessary, all subsequent schedules for Work shall be adjusted to reflect and be consistent with EPA's final decision on the dispute. If Respondents do not agree to perform or do not actually perform the Work in accordance with EPA's final decision, EPA reserves the right in its sole discretion to itself conduct the Work or any portion thereof and seek reimbursement from Respondents of the costs thereof, to seek enforcement of the decision, to seek stipulated penalties, and/or to seek any other appropriate relief.
- c. Respondents shall not invoke the dispute resolution procedures of Paragraph 104.a. more than once regarding the same issue.
- d. Respondents may contest any Response Costs paid under Paragraph 97 if after receipt of EPA's printout of cost data from its financial management system, Respondents determine that EPA has made an accounting error or if they allege that a cost item that is included represents costs that are inconsistent with the NCP or are outside the definition of Response Costs in Paragraph 7.f. Such objection shall be made in accordance with Paragraph 104.a. Any such objection shall specifically identify the contested Response Cost and the basis for objection. For purposes of this subparagraph and subparagraph e. below, Respondents shall not claim that any of the following constitutes an accounting error: (i) EPA's methodology for calculating indirect costs, as set forth at 65 Fed. Reg. 35341-35345 (June 2, 2000); (ii) any actual or provisional indirect cost rates which are set for EPA Region 2 by EPA's Office of the Comptroller (or similar office) based on the methodology referred to in clause (i); (iii) EPA's methodology for calculating contractor annual allocation costs; and (iv) EPA's use of a provisional annual allocation rate for EPA contractor costs if no final annual allocation rate has been established for a given year and contractor at the time that EPA issues a bill for such contractor costs. If Respondents prevail in the dispute as to some or all of these costs, EPA will treat the costs for which Respondents prevailed as a credit against any other response costs that EPA would be entitled to collect from Respondents either under this Settlement Agreement or otherwise with respect to the Site.
- e. Respondents may contest payment of any Response Costs billed under Paragraph 98 if they determine that EPA has made an accounting error, or if they allege that a cost item that is included represents costs that are inconsistent with the NCP or are outside the definition of Response Costs in Paragraph 7.f. Such objection shall be made in accordance with Paragraph 104.a. Any such objection shall specifically identify the contested Response Cost and the basis for objection.

Respondents shall, within the 30-day period, pay all uncontested Response Costs to EPA in the manner described in Paragraph 99. Simultaneously, Respondents shall establish an interest-bearing escrow account in a federally-insured bank duly chartered in the State of New York and remit to that escrow account funds equivalent to the amount of the contested Response Costs. Respondents shall send to the RPM and the OSC a copy of the transmittal letter and check paying the uncontested Response Costs, and a copy of the correspondence that establishes and funds the escrow account, including, but not limited to, information containing the identity of the bank and bank account under which the escrow account is established as well as a bank statement showing the initial balance of the escrow account. Simultaneously with establishment of the escrow account, Respondents shall initiate the Dispute Resolution procedures in Paragraph 104.a. Within fifteen (15) days of the resolution of the dispute under Paragraph 104.a., Respondents shall remit to EPA, in the manner described in Paragraph 99, the amount agreed upon by the parties under Paragraph 104.a., or, if no agreement is reached, then the amount (if any) directed by the ERRD Director, with accrued interest. The balance of the escrow account funds, if any, will be disbursed to Respondents.

- f. The invocation of dispute resolution procedures under Paragraph 104.a. shall not extend, postpone or affect in any way any obligation of Respondents under this Settlement Agreement not directly in dispute, unless EPA agrees otherwise. In addition, the invocation of dispute resolution procedures under Paragraph 104.a. shall not stay any accrual of stipulated penalties unless EPA agrees otherwise; provided, however, that: (a) during the pendency of the dispute resolution process under Paragraph 104.a., EPA will not issue a demand for stipulated penalties regarding an obligation that is directly affected by the dispute; (b) after the conclusion of the dispute resolution process under Paragraph 104.a., EPA will not issue a demand for stipulated penalties for noncompliance during the dispute resolution process with an obligation that was directly affected by the dispute if the final resolution of the dispute was one which comports with the position Respondents were taking during the dispute resolution process; and (c) stipulated penalties regarding an obligation that is directly affected by the dispute shall not continue to accrue during the period, if any, beginning on the 8th day after the date that the matter in dispute is fully presented to the ERRD Director pursuant to Paragraph 104.a. and ending when the ERRD Director issues her/his final decision.

XIX. STIPULATED AND STATUTORY PENALTIES

105. If Respondents fail, without prior EPA approval, to comply with any of the requirements or time limits set forth in or established pursuant to this Settlement Agreement, and such failure is

not excused under the terms of Paragraphs 101 through 103 above (Force Majeure), Respondents shall, upon demand by EPA, pay a stipulated penalty to EPA in the amount indicated below:

- a. For all requirements of this Settlement Agreement, other than the timely provision of progress reports required by Paragraph 74, stipulated penalties shall accrue in the amount of \$1,000 per day, per violation, for the first seven days of noncompliance, \$1,500 per day, per violation, for the 8th through 15th day of noncompliance, \$3,000 per day, per violation, for the 16th through 25th day of noncompliance, and \$7,000 per day, per violation, for the 26th day of noncompliance and beyond.
- b. For the progress reports required by Paragraph 74, stipulated penalties shall accrue in the amount of \$500 per day, per violation, for the first seven days of noncompliance, \$1,000 per day, per violation, for the 8th through 15th day of noncompliance, \$2,000 per day, per violation, for the 16th through 25th day of noncompliance, and \$4,000 per day, per violation, for the 26th day of noncompliance and beyond.

106. Any such penalty shall accrue as of the first day after the applicable deadline has passed and shall continue to accrue until the noncompliance is corrected or EPA notifies Respondents that it has determined that it will perform the tasks for which there is non-compliance. Such penalty shall be due and payable thirty (30) days following receipt of a written demand from EPA. Payment of any such penalty to EPA shall be made via EFT in accordance with the payment procedures in Paragraph 99 above. Respondents shall pay interest on any amounts overdue under this Paragraph. Such interest shall begin to accrue on the first day that the respective payment is overdue. Interest shall accrue at the rate of interest on investments of the Hazardous Substances Superfund, in accordance with Section 107(a) of CERCLA, 42 U.S.C. § 9607(a).

107. Even if violations are simultaneous, separate penalties shall accrue for separate violations of this Settlement Agreement. Penalties accrue and are assessed per violation per day. Penalties shall accrue regardless of whether EPA has notified Respondents of a violation or act of noncompliance. The payment of penalties shall not alter in any way Respondents' obligation to complete the performance of the Work required under this Settlement Agreement.

108. Notwithstanding any other provision of this Settlement Agreement, failure of Respondents to comply with any provision of this Settlement Agreement may subject Respondents to civil penalties of up to thirty-seven thousand five hundred dollars (\$37,500) per violation per day, as provided in Sections 109 and 122(l) of CERCLA, 42 U.S.C. §§ 9609 and 9622(l), and the Debt Collection and Improvement Act of 1996 (see Civil Monetary Penalty Inflation Adjustment Rule, 74 Fed. Reg. 626 (January 7, 2009)), unless such failure to comply is excused by EPA under the terms of Paragraphs 101 through 103 above. Respondents may also be subject to punitive damages in an amount at least equal to but not more than three times the amount of any costs incurred by the United States as a result of such failure to comply with this Settlement Agreement, as provided in Section 107(c)(3) of CERCLA, 42 U.S.C. § 9607(c)(3). Should

Respondents violate this Settlement Agreement or any portion thereof, EPA may carry out the required actions unilaterally, pursuant to Section 104 of CERCLA, 42 U.S.C. § 9604, and/or may seek judicial enforcement of this Settlement Agreement pursuant to Section 106 and 122 of CERCLA, 42 U.S.C. §§ 9606 and 9622.

XX. OTHER CLAIMS

109. By issuance of this Settlement Agreement, the United States and EPA assume no liability for injuries or damages to persons or property resulting from any acts or omissions of Respondents or Respondents' employees, agents, contractors, or consultants in carrying out any action or activity pursuant to this Settlement Agreement. The United States or EPA shall not be held out as or deemed a party to any contract entered into by Respondents or their directors, officers, employees, agents, successors, representatives, assigns, contractors, or consultants in carrying out actions pursuant to this Settlement Agreement.

110. Except as expressly provided in Paragraph 127 (waiver against "de micromis" parties) and Section XXIV (Covenant Not to Sue by EPA), below, nothing in this Settlement Agreement constitutes a satisfaction of or release from any claim or cause of action against Respondents or any person not a party to this Settlement Agreement, for any liability such person may have under CERCLA, other statutes, or common law, including but not limited to any claims of the United States for costs, damages and interest under Sections 106 and 107 of CERCLA, 42 U.S.C. §§ 9606 and 9607.

111. No action or decision by EPA pursuant to this Settlement Agreement shall give rise to any right to judicial review, except as set forth in Section 113(h) of CERCLA, 42 U.S.C. § 9613(h).

XXI. INDEMNIFICATION

112. Respondents agree to indemnify, save, and hold harmless the United States, its agencies, departments, officials, agents, contractors, subcontractors, employees, and representatives from any and all claims or causes of action arising from or on account of acts or omissions of Respondents, their employees, officers, directors, agents, servants, receivers, trustees, successors, assigns, or any other persons acting on behalf of Respondents or under their control, as a result of the fulfillment or attempted fulfillment of the terms and conditions of this Settlement Agreement by Respondents. The United States will give Respondents reasonable notice of any claim against the United States for which the United States intends to seek indemnification from Respondents pursuant to this Section, and will consult with Respondents prior to settling such claim.

113. Respondents waive all claims against the United States for damages or reimbursement or for set-off of any payments made or to be made to the United States, arising from or on account of any contract, agreement, or arrangement between Respondents and any person for performance of Work on or relating to the Site, including, but not limited to, claims on account

of construction delays. In addition, Respondents shall indemnify and hold harmless the United States with respect to any and all claims for damages or reimbursement arising from or on account of any contract, agreement, or arrangement between Respondents and any person for performance of Work on or relating to the Site, including but not limited to, claims on account of construction delays.

114. Further, Respondents agree to pay the United States all costs it incurs including, but not limited to, attorneys fees and other expenses of litigation and settlement arising from, or on account of, claims made against the United States based on acts or omissions of Respondents, their officers, directors, employees, agents, contractors, subcontractors, and any persons acting on their behalf or under their control, in carrying out activities pursuant to this Settlement Agreement.

XXII. INSURANCE

115. At least seven (7) days prior to commencing any Work at the Site, Respondents shall submit to EPA a certification that Respondents or their contractors and subcontractors have adequate insurance coverage or have indemnification for liabilities for injuries or damages to persons or property which may result from the activities to be conducted by or on behalf of Respondents pursuant to this Settlement Agreement. Respondents shall ensure that such insurance or indemnification is maintained for the duration of the Work required by this Settlement Agreement.

XXIII. FINANCIAL ASSURANCE

116. Within 30 days of the Effective Date, Respondents shall establish and maintain financial security for the benefit of EPA in an amount no less than the estimated cost of the Work to be performed by Respondents under this Settlement Agreement in one or more of the following forms, in order to secure the full and final completion of Work by Respondents:

- a. a surety bond unconditionally guaranteeing payment and/or performance of the Work;
- b. one or more irrevocable letters of credit, payable to or at the direction of EPA, issued by financial institution(s) acceptable in all respects to EPA;
- c. a trust fund administered by a trustee acceptable in all respects to EPA;
- d. a policy of insurance issued by an insurance carrier acceptable in all respects to EPA, which ensures the payment and/or performance of the Work;
- e. a written guarantee to pay for or perform the Work provided by one or more parent companies of Respondents, or by one or more unrelated companies that have a substantial business relationship with at least one of Respondents;

including a demonstration that any such guarantor company satisfies the financial test requirements of 40 C.F.R. Part 264.143(f); and/or

- f. demonstration of sufficient financial resources to pay for the Work made by one or more of Respondents, which shall consist of a demonstration that any such Respondent satisfies the requirements of 40 C.F.R. Part 264.143(f).

117. If Respondents elect to utilize the forms provided in Paragraphs 116.e. and/or 116.f. and Respondents or guarantors have provided similar demonstration at other RCRA, CERCLA, TSCA, or other federally-regulated Sites, the amount for which Respondents are providing financial assurance at those Sites should be added to the estimated cost of the Work for purposed of determining the total dollar amount required to satisfy the requirements of 40 C.F.R. Part 264.143(f).

118. Any and all financial assurance instruments provided pursuant to this Section shall be in form and substance satisfactory to EPA, determined in EPA's sole discretion. In the event that EPA determines at any time that the financial assurances provided pursuant to this Section (including, without limitation, the instrument(s) evidencing such assurances) are inadequate, Respondents shall, within 30 days of receipt of notice of EPA's determination, obtain and present to EPA for approval one of the other forms of financial assurance listed in Paragraph 116, above. In addition, if at any time EPA notifies Respondents that the anticipated cost of completing the Work has increased, then, within 30 days of such notification, Respondents shall obtain and present to EPA for approval a revised form of financial assurance (otherwise acceptable under this Section) that reflects such cost increase. Respondents' inability to demonstrate financial ability to complete the Work shall in no way excuse performance of any activities required under this Settlement Agreement.

119. If, after the Effective Date, Respondents can show that the estimated cost to complete the remaining Work has diminished below the amount initially set, Respondents may, on any anniversary date of the Effective Date, or at any other time agreed to by the Parties, reduce the amount of the financial security provided under this Section to the estimated cost of the remaining Work to be performed. Respondents shall submit a proposal for such reduction to EPA, in accordance with the requirements of this Section, and may reduce the amount of the security after receiving written approval from EPA.

120. Respondents may change the form of financial assurance provided under this Section at any time, upon notice to and prior written approval by EPA, provided that EPA determines that the new form of assurance meets the requirements of this Section.

XXIV. COVENANT NOT TO SUE BY EPA

121. In consideration of the actions that will be performed and the payments that will be made by Respondents under the terms of this Settlement Agreement, and except as otherwise specifically provided in this Settlement Agreement, EPA covenants not to sue or to take

administrative action against Respondents pursuant to Sections 106 and 107(a) of CERCLA, 42 U.S.C. §§ 9606 and 9607(a), for performance of the Work and for recovery of Response Costs. This covenant not to sue shall take effect upon the Effective Date of this Settlement Agreement and is conditioned upon the complete and satisfactory performance by Respondents of all obligations under this Settlement Agreement, including, but not limited to, payment of Response Costs pursuant to Section XVI (Reimbursement of Costs), above. This covenant not to sue extends only to Respondents and does not extend to any other person.

XXV. RESERVATION OF RIGHTS BY EPA

122. Except as specifically provided in this Settlement Agreement, nothing herein shall limit the power and authority of EPA or the United States to take, direct, or order all actions necessary to protect public health, welfare, or the environment or to prevent, abate, or minimize an actual or threatened release of hazardous substances, pollutants or contaminants, or hazardous or solid waste on, at, or from the Site. Further, nothing herein shall prevent EPA from seeking legal or equitable relief to enforce the terms of this Settlement Agreement, from taking other legal or equitable action as it deems appropriate and necessary, or from requiring Respondents in the future to perform additional activities pursuant to CERCLA or any other applicable law.

123. The covenant not to sue set forth in Section XXIV (Covenant Not to Sue by EPA), above, does not pertain to any matters other than those expressly identified therein. EPA reserves, and this Settlement Agreement is without prejudice to, all rights against Respondents with respect to all other matters, including, but not limited to:

- a. Claims based on a failure by Respondents to meet a requirement of this Settlement Agreement;
- b. Liability for costs not included within the definition of Response Costs;
- c. Liability for performance of response actions other than the Work;
- d. Criminal liability;
- e. Liability for damages for injury to, destruction of, or loss of natural resources, and for the costs of any natural resource damage assessments;
- f. Liability arising from the past, present, or future disposal, release or threat of release of Waste outside of the Site; and
- g. Liability for costs incurred or to be incurred by the Agency for Toxic Substances and Disease Registry related to the Site.

124. Work Takeover. In the event EPA determines that Respondents have ceased implementation of any portion of the Work, are seriously or repeatedly deficient or late in their performance of the Work, or are implementing the Work in a manner which may cause an endangerment to human health or the environment, EPA may assume the performance of all or any portion of the Work as EPA determines necessary. Costs incurred by the EPA in performing the Work pursuant to this Paragraph shall be considered Response Costs that Respondents shall pay pursuant to Section XVI (Reimbursement of Costs). Notwithstanding any other provision of this Settlement Agreement, EPA retains all authority and reserves all rights to take any and all response actions authorized by law.

XXVI. COVENANT NOT TO SUE BY RESPONDENTS

125. Respondents covenant not to sue and agree not to assert any claims or causes of action against the United States, or its contractors or employees, with respect to the Work, Response Costs, or this Settlement Agreement, including, but not limited to:

a. Any direct or indirect claim for reimbursement from the Hazardous Substance Superfund established by 26 U.S.C. § 9507, based on Sections 106(b)(2), 107, 111, 112, or 113 of CERCLA, 42 U.S.C. §§ 9606(b)(2), 9607, 9611, 9612, or 9613, or any other provision of law;

b. Any claim arising out of the Work or Response Costs, including any claim under the United States Constitution, the New York State Constitution, the Tucker Act, 28 U.S.C. § 1491, the Equal Access to Justice Act, 28 U.S.C. § 2412, as amended, or at common law; or

c. Any claim against the United States pursuant to Sections 107 and 113 of CERCLA, 42 U.S.C. §§ 9607 and 9613 relating to the Work or Response Costs.

Except as provided in Paragraph 127 (Waiver of Claims), these covenants not to sue shall not apply in the event the United States brings a cause of action or issues an order pursuant to the reservations set forth in Paragraphs 123.b.c., and e.-g., but only to the extent that Respondents' claims arise from the same response action, response costs, or damages that the United States is seeking pursuant to the applicable reservation.

126. Nothing in this Settlement Agreement shall be deemed to constitute approval or preauthorization of a claim within the meaning of Section 111 of CERCLA, 42 U.S.C. § 9611, or 40 C.F.R. § 300.700(d).

127. Waiver of Claims. Respondents agree not to assert any claims and to waive all claims or causes of action that they may have for all matters relating to the Work, including for contribution, against any person where the person's liability to Respondents with respect to the Work is based solely on having arranged for disposal or treatment, or for transport for disposal or treatment, of hazardous substances at the Site, or having accepted for transport for disposal or treatment of hazardous substances at the Site, if all or part of the disposal, treatment, or transport

occurred before April 1, 2001, and the total amount of material containing hazardous substances contributed by such person to the Site was less than 110 gallons of liquid materials or 200 pounds of solid materials.

128. The waiver in Paragraph 127 shall not apply with respect to any defense, claim, or cause of action that Respondents may have against any person meeting the above criteria if such person asserts a claim or cause of action relating to the Site against Respondents. This waiver also shall not apply to any claim or cause of action against any person meeting the above criteria if EPA determines:

a. That such person has failed to comply with any EPA requests for information or administrative subpoenas issued pursuant to Section 104(e) or 122(e) of CERCLA, 42 U.S.C. §§ 9604(e) or 9622(e), or Section 3007 of RCRA, 42 U.S.C. § 6927, or has impeded or is impeding, through action or inaction, the performance of a response action or natural resource restoration with respect to the Site, or has been convicted of a criminal violation for the conduct to which this waiver would apply and that conviction has not been vitiated on appeal or otherwise; or

b. That the materials containing hazardous substances contributed to the Site by such person have contributed significantly, or could contribute significantly, either individually or in the aggregate, to the cost of response action or natural resource restoration at the Site.

XXVII. CONTRIBUTION PROTECTION AND RIGHTS

129. The Parties agree that this Settlement Agreement constitutes an administrative settlement for purposes of Section 113(f)(2) of CERCLA, 42 U.S.C. § 9613(f)(2), and that Respondents are entitled, as of the Effective Date, to protection from contribution actions or claims as provided by Sections 113(f)(2) and 122(h)(4) of CERCLA, 42 U.S.C. §§ 9613(f)(2) and 9622(h)(4), for "matters addressed" in this Settlement Agreement. The "matters addressed" in this Settlement Agreement are the Work and Response Costs.

130. The Parties agree that this Settlement Agreement constitutes an administrative settlement for purposes of Section 113(f)(3)(B) of CERCLA, 42 U.S.C. § 9613(f)(3)(B), pursuant to which Respondents have resolved their liability to the United States for the Work performed under this Settlement Agreement and for Response Costs.

131. Except as provided in Section XXVI (Covenant Not to Sue by Respondents), above, nothing in this Settlement Agreement precludes the United States or Respondents from asserting any claims, causes of action or demands against any persons not parties to this Settlement Agreement for indemnification, contribution or cost recovery. Nothing herein diminishes the right of the United States, pursuant to Sections 113(f)(2) and (3) of CERCLA, 42 U.S.C. § 9613(f)(2)-(3), to pursue any such persons to obtain additional response costs or response action and to enter into settlements that provide contribution protection to such persons.

XXVIII. MODIFICATIONS

132. The OSC and RPM may make modifications to any plan or schedule in writing or by oral direction. Any oral modification will be memorialized in writing by EPA promptly, but shall have as its effective date the date of the OSC's or RPM's oral direction. Any other requirements of this Settlement Agreement may be modified in writing by mutual agreement of the parties.

133. If Respondents seek permission to deviate from any approved work plan or schedule, Respondents' Project Coordinator shall submit a written request to EPA for approval outlining the proposed modification and its basis. Respondents may not proceed with the requested deviation until receiving oral or written approval from the OSC or RPM pursuant to Paragraph 132.

134. No informal advice, guidance, suggestion, or comment by the OSC or RPM or other EPA representatives regarding reports, plans, specifications, schedules, or any other writing submitted by Respondents shall relieve Respondents of their obligation to obtain any formal approval required by this Settlement Agreement, or to comply with all requirements of this Settlement Agreement, unless it is formally modified.

XXIX. TERMINATION AND SATISFACTION

135. Upon a determination by EPA (following its receipt of the Final Report referred to in Paragraph 78, above) that the Work required pursuant to this Settlement Agreement has been fully carried out in accordance with this Settlement Agreement, EPA will so notify Respondents in writing. Such notification shall not affect any continuing obligations of Respondents. If EPA determines that any removal activities have not been completed in accordance with this Settlement Agreement, EPA may so notify Respondents, provide a list of the deficiencies, and require that Respondents correct such deficiencies in accordance with Section VII of this Settlement Agreement.

XXX. SEVERABILITY/INTEGRATION/APPENDICES

136. If a court issues an order that invalidates any provision of this Settlement Agreement or finds that Respondents need not comply with one or more provisions of this Settlement Agreement, Respondents shall remain bound to comply with all provisions of this Settlement Agreement not invalidated or excused by the court's order.

137. This Settlement Agreement and its appendices constitute the final, complete and exclusive agreement and understanding among the Parties with respect to the settlement embodied in this Settlement Agreement. The Parties acknowledge that there are no representations, agreements, or understandings relating to the settlement other than those expressly contained in this

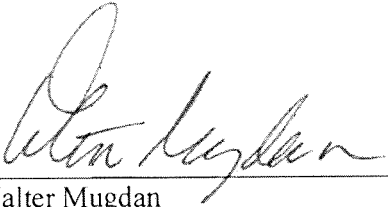
Settlement Agreement. The following appendices are attached to and incorporated into this Settlement Agreement:

Appendix A - Map of Site

XXXI. EFFECTIVE DATE

138. This Settlement Agreement shall become effective five (5) days after execution of the Settlement Agreement by EPA. All times for performance of actions or activities required herein will be calculated from said Effective Date.

U.S. ENVIRONMENTAL PROTECTION AGENCY



Walter Mugdan
Director
Emergency and Remedial Response Division
U.S. Environmental Protection Agency
Region II

April 10, 2012
Date of Issuance

In the Matter of the Dewey Loeffel Landfill Site, EPA Index No. CERCLA-02-2012-2005

CONSENT

The Respondent named below has had an opportunity to confer with EPA to discuss the terms and the issuance of this Settlement Agreement. The Respondent hereby consents to the issuance of this Settlement Agreement and to its terms. Furthermore, the individual signing this Settlement Agreement on behalf of Respondent certifies that he or she is fully and legally authorized to agree to the terms and conditions of this Settlement Agreement and to bind Respondent.

SI GROUP, INC.

Richard P. Barbato
(Signature)

March 22, 2012
(Date)

Richard P. Barbato
(Printed Name of Signatory)

Sr. VP - CFO + Treasurer
(Title of Signatory)



In the Matter of the Dewey Locffel Landfill Site, EPA Index No. CERCLA-02-2012-2005

CONSENT

The Respondent named below has had an opportunity to confer with EPA to discuss the terms and the issuance of this Settlement Agreement. The Respondent hereby consents to the issuance of this Settlement Agreement and to its terms. Furthermore, the individual signing this Settlement Agreement on behalf of Respondent certifies that he or she is fully and legally authorized to agree to the terms and conditions of this Settlement Agreement and to bind Respondent.

GENERAL ELECTRIC COMPANY


(Signature)

4/10/12
(Date)

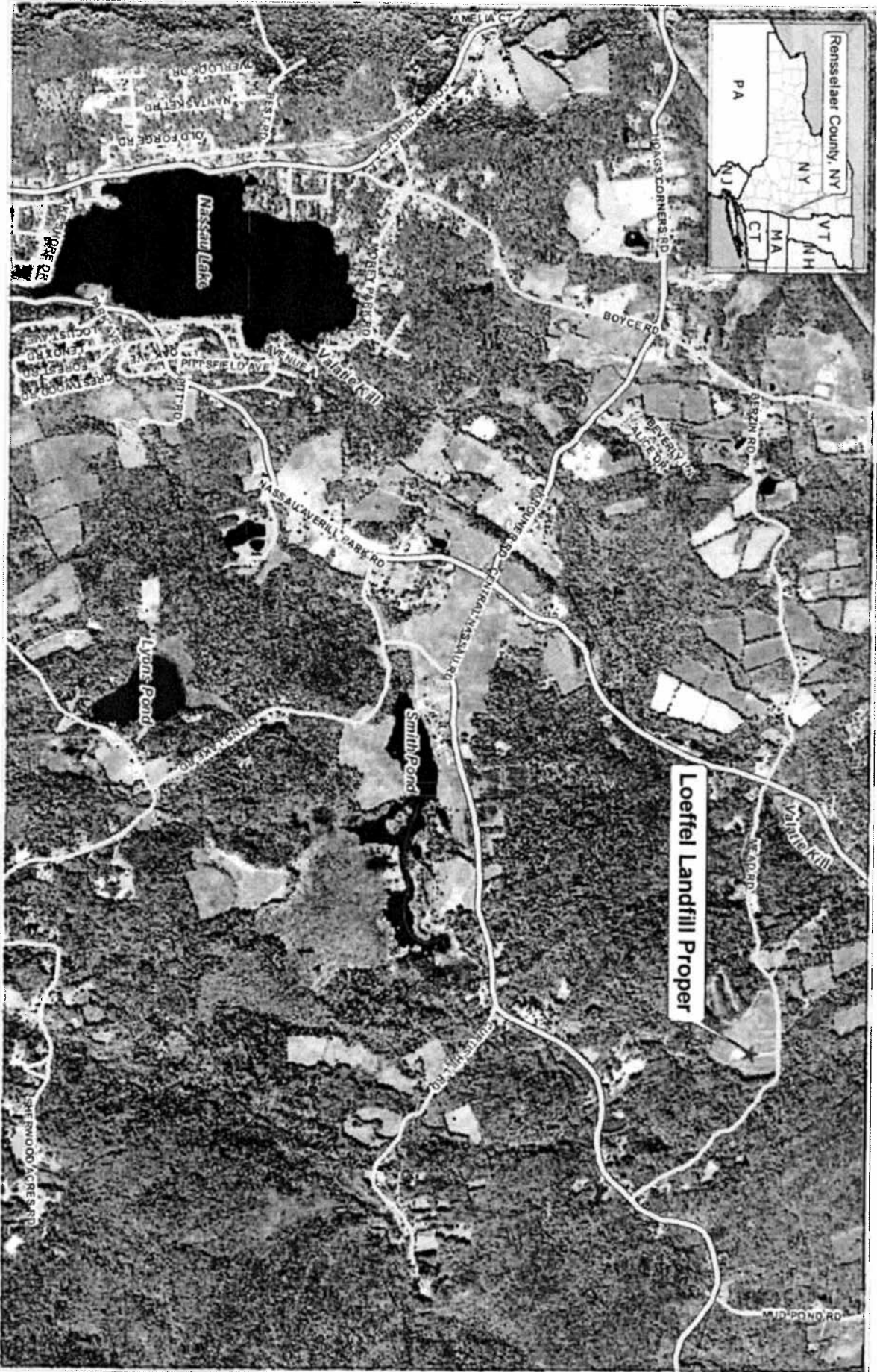
Ann R. Klee
(Printed Name of Signatory)

Vice President, Corp Environmental Programs
(Title of Signatory)



APPENDIX A
Site Map





Map created using NALP imagery data from USGS.

Map Creation Date: 23 March 2011

Coordinate system: New York State Plane East

EPS: 3101

Datum: NAD83

Units: Feet



Figure 1
Loeffel Landfill Site Overview
Dewey Loeffel
Nassau, NY

